

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

D'WAYNE DEARING

PETITIONER

V.

CIVIL ACTION NO. 1:10CV228-A-A

MONROE COUNTY CIRCUIT COURT, et al.

RESPONDENTS

ORDER

Petitioner, a *pro se* inmate, has filed a 2254 petition. Petitioner had previously filed a 2254 motion which dismissed on July 30, 2010. *See Dearing v. Monroe County Circuit Court*, 1:10CV55-NBB. He also has previously filed two other petitions but failed to comply with the exhaustion requirement. *See Dearing v. Quinnell Shumpard*, 1:02CV468-GHD (dismissed on April 9, 2003); *Dearing v. Kilgore*, 1:04CV176-NBB (dismissed on October 8, 2004). The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law No. 104-132, 110 Stat. 1214) (hereinafter, the AEDPA), which was signed into law on April 24, 1996, amended habeas corpus procedure in several different ways. One of the changes dealt with second or successive writs. The AEDPA requires that before a district court considers a second or successive petition, "the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Although he is seeking permission to file his petition, he must do so in the Fifth Circuit Court of Appeals. The instant petition shall be DISMISSED and this matter is CLOSED. The motion to proceed IFP is DENIED.

SO ORDERED this the 13th day of December, 2010.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE